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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Attorney for Plaintiffs, GEOFFREY WELLS and JETTZEN DICKEL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

GEOFFREY WELLS AND JETTZEN
DICKEL,

CASE NO. **C08 01382**

Plaintiffs,

vs

CITY OF WATSONVILLE; CITY COUNCIL
MEMBER/MAYOR KIMBERLY
PETERSEN; CITY COUNCIL MEMBER
MANUEL BERSAMIN; CITY COUNCIL
MEMBER OSCAR RIOS; CITY COUNCIL
MEMBER ANTONIO RIVAS; CITY
COUNCIL MEMBER GREG CAPUT; CITY
COUNCIL MEMBER EDWARD DIN; CITY
COUNCIL MEMBER DALE SKILLICORN;
CITY DIRECTOR JOHN DOUGHTY;
AND DOES 1 - 15,

Defendants.

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
DAMAGES - VIOLATION
OF CONSTITUTIONAL
RIGHTS

DEMAND FOR JURY TRIAL

Plaintiffs GEOFFREY WELLS and JETTZEN DICKEL, allege as follows:

JURISDICTION AND VENUE

1. This action arises under the Civil Rights Act of 1871 (42 U.S.C. Sections 1983 and 1988) and the First and Fourteenth Amendments to the Constitution of the United States. This Court has jurisdiction of the federal claims under 28 U.S.C. Sections 1331, 1332, 1343(3), 1343(4), 2201, and 2202. This court has pendent jurisdiction over the state law claims.

2. Venue is proper in the Northern District of California, San Jose Division

1 pursuant to 28 U.S.C. section 1391, in that the subject matter of this action arose in this
2 district, all Defendants are subject to personal jurisdiction in this district, and there is no
3 district in which the action may otherwise be brought.

4 **PARTIES**

5 3. Plaintiff GEOFFREY WELLS ("WELLS") is, and at all relevant times herein
6 was, a resident of the County of Santa Cruz, State of California, who wishes to open a tattoo
7 studio in the City of Watsonville. Plaintiff JETTZEN DICKEL ("DICKEL") is, and at all
8 relevant times herein was, a resident of the City of Watsonville, County of Santa Cruz, State
9 of California who wishes to receive a tattoo at WELLS' tattoo studio when it opens in the
10 City of Watsonville. WELLS and DICKEL are hereinafter collectively known as "the
11 plaintiffs".

12 4. Defendant CITY OF WATSONVILLE ("CITY") is a political subdivision of
13 the State of California.

14 5. Defendants CITY COUNCIL MEMBER/MAYOR PETERSEN
15 ("PETERSEN"); CITY COUNCIL MEMBER BERSAMIN ("BERSAMIN"); CITY
16 COUNCIL MEMBER DIN ("DIN"); CITY COUNCIL MEMBER CAPUT ("CAPUT");
17 CITY COUNCIL MEMBER RIVAS ("RIVAS"); CITY COUNCIL MEMBER RIOS
18 ("RIOS"); CITY COUNCIL MEMBER SKILLICORN ("SKILLICORN") (hereinafter
19 collectively known as "THE CITY COUNCIL") are members of the Watsonville CITY
20 Council; DIRECTOR JOHN DOUGHTY (hereinafter "DOUGHTY") is the Director of
21 Community Development for the CITY; each of the foregoing and DOES 1 through 15 are
22 sued herein in their individual and in their official capacities; in performing the unlawful acts
23 hereafter mentioned, these Defendants conspired with each other and acted under color of the
24 statutes, ordinances, regulations, customs and usages of the State of California, and pursuant
25 to the official policy, custom and practice of the CITY. Each Defendant is, and was at all
26 relevant times, the agent, employee or representative of each other Defendant; and had the
27 legal duty to oversee the conduct of every other Defendant named.

28 6. The names and capacities of Defendants DOES 1 through 15 are unknown to
the Plaintiffs. Each of these fictitiously named parties has acted as agent of or in concert with

1 the named Defendants in the matters referred to herein, and is responsible in some manner for
2 the damages suffered by Plaintiffs. Plaintiffs will amend this complaint to add the names and
3 capacities of such Defendants when ascertained.

4 **STATEMENT OF FACTS COMMON TO ALL CLAIMS**

5 7. In November, 2006, WELLS, desiring to open a tattoo art studio in the City,
6 and DICKEL, who wishes to receive a tattoo at WELLS' studio in the City, hired an attorney
7 to research the requirements for opening such a business in the City. After preliminary
8 research, plaintiffs' attorney discovered that there was an ordinance in the city which
9 prohibited the art of tattooing except under the supervision of a licensed physician. In
10 November, 2006, plaintiffs' attorney sent a letter to the City Attorney for Watsonville, Alan
11 Smith, with copies to each of the CITY COUNCIL members explaining that tattooing is an art
12 form and conduct subject to First Amendment protection; and as such, the city's ordinance, a
13 defacto ban on tattooing, was unconstitutional. The letter further requested that the City take
14 action to remedy the situation to avoid litigation regarding the matter.

15 8. In response, the City took action by placing a one year moratorium halting any
16 action regarding the tattoo ordinance while the council contemplated what action they should
17 take, if any. On June 26, 2007, and on August 14, 2007, a proposed amended ordinance was
18 presented to the defendants establishing requirements for opening a business in the CITY for
19 the purpose of body art and piercing activities. At the public hearings on the matter,
20 defendants RIVAS, RIOS, CAPUT and SKILLICORN expressed their personal animosity and
21 prejudices towards body art and further stated that there was no place for such an
22 establishment in the City stating that it would project the "wrong" image for the CITY.
23 RIVAS and CAPUT demeaned the tattoo artistry business as well as those who are tattooed,
24 including the plaintiff WELLS herein. The Deputy Police Chief testified at one of the
25 hearings that he had researched the issues by contacting the police departments of
26 neighboring cities with tattoo establishments and had learned that categorically, without
27 exception, the statistics showed that there was no higher crime rate in neighborhoods with
28 operating tattoo studios and that there was absolutely no correlation between the incidence of
crime and the location of tattoo establishments. Additionally, the Watsonville Chief of Police

1 declared publically in the presence of WELLS and his attorney that there was no relationship
2 between the location of tattoo studios and crime.

3 9. The proposed amendments to the tattoo ordinance, while ostensibly legalizing
4 the practice of tattooing by a non-physician, included highly restrictive zoning mandates and
5 set back requirements from schools, parks, liquor establishments and other tattoo studios that
6 effectively eliminated any potential site for a tattoo studio in the CITY. Plaintiffs objected to
7 the proposed zoning restrictions and publicly informed the defendants that the parcel map
8 provided to the CITY COUNCIL by DOUGHTY, which allegedly showed available sites for
9 tattoo studios, was inaccurate and misleading - that among other things, the sites which were
10 represented by DOUGHTY as potential tattoo studios included a gas station, a 7/11 market,
11 hotels, a moving and storage operation and private residences.

12 10. In discussing the amended ordinance, defendants RIVAS, RIOS, CAPUT and
13 SKILLICORN repeated their personal prejudices against the art of tattooing and expressed
14 their contempt for those who chose to so adorn their bodies, including the plaintiffs herein.
15 Defendant RIVAS moved to pass the ordinance only with even more stringent restrictions
16 regarding the setback requirements. When informed by DOUGHTY that such restrictions
17 would not allow for any potential site, the CITY COUNCIL ignored such advice and put it to
18 a vote. The amended ordinance did not pass. At that point, the CITY COUNCIL, repeating
19 their contemptuous views for the art of tattooing, voted to keep the old ordinance requiring
20 that tattooing be performed only under the supervision of a licensed physician.

21 11. On or about September 11, 2007, another public hearing was held regarding a
22 proposed amended ordinance for tattoo and body art establishments. The newly amended
23 ordinance increased the setback requirements between body art establishments and made
24 other minor changes - the zoning restrictions were the same and with the proposed increased
25 setback between studios, it left even fewer possible sites than the previous proposed amended
26 ordinance. Despite plaintiffs' and their attorney's stated written and oral objections at the
27 hearing that the zoning restrictions did not reasonably allow for any potential location for a
28 tattoo business, the CITY COUNCIL voted by a majority to pass the proposed amended
ordinance on or about September 25, 2007.

1 12. While the CITY COUNCIL repeatedly stated that their concerns were for the
2 health and safety of their constituents, the adopted ordinance sets out extensive health and
3 safety requirements before a tattoo studio may receive a permit (three permits are required by
4 the ordinance, including background checks and fingerprinting by the police department and
5 the requirement of classes regarding blood borne pathogens, immunizations and sterilization
6 procedures and other stringent health and safety requirements as to the operation of the studio
7 itself) which would ameliorate any genuine concerns of the CITY COUNCIL for the health
8 and safety of their constituents.. Plaintiffs do not and never have objected to such health and
9 safety requirements. The CITY COUNCIL's stated concerns are simply a ruse to cover up
10 their prejudice against the protected art form and their motive to ban such establishments
11 from the CITY - a goal which they accomplished by passing the ordinance with the zoning
12 restrictions in place knowing that there would be no sites available.

13 13. CAPUT, RIVAS and RIOS repeatedly stated on the record that their constituents
14 were opposed to allowing a tattoo studio to operate in the CITY, however, at the numerous
15 public hearings not a single person appeared to object to the legalization of tattooing in the
16 CITY, nor did any of the CITY COUNCIL members present any evidence - no letters, no
17 petitions, no emails - that any of their constituents were opposed to such legalization. In fact,
18 the only public input consisted of spontaneous comments by residents of the CITY who
19 happened to be at the hearings regarding the proposed tattoo ordinance, and all of such
20 comments were in favor of changing the law to allow the art of tattooing in the CITY.

21 14. WELLS is now foreclosed from opening a body art establishment, where he can
22 conduct protected First Amendment activity, and DICKEL is unable to receive a tattoo at
23 WELLS' studio, as a result of the CITY COUNCIL's passage of the tattoo ordinance that is a
24 de facto prohibition on the location of tattoo studios in the CITY by unnecessary and unlawful
25 zoning restrictions in violation of plaintiffs' constitutional rights. Defendants intended to
26 foreclose WELLS from opening a tattoo studio in the CITY and successfully achieved their
27 goal by passing an ordinance that is an effective ban on the location of such a studio in the
28 CITY.

 15. Tattooing is an art form that has been practiced in virtually every culture on

1 the planet for thousands of years. Persons across the cultural spectrum of America have
2 tattoos. Tattooing is believed to be the most commonly purchased form of original art work
3 in the United States. Estimates of the numbers of Americans of certain age groups who have
4 tattoos range as high as 30 per cent. Individuals obtain tattoos to express the full range of
5 human emotions and beliefs, including their religious beliefs and declarations; declarations of
6 patriotism and loyalty to their country; declarations of love and devotion for parents, spouses,
7 children and lovers; beliefs about freedom, loyalty and beauty; membership in organizations
8 or branches of the military; expressions of remembrance for deceased friends and family; and
9 the entire spectrum of human beliefs and feelings.

10 16. The permanent and indelible nature of tattoos makes them unique as a form of
11 personal art. Persons obtain tattoos to demonstrate their lifelong commitment to other
12 persons, to institutions, to religious beliefs and to political or personal beliefs. No other form
13 of art can communicate this degree of commitment to such beliefs.

14 17. The artistic importance of tattoos has been described in the catalog for
15 "Pierced Hearts and True Love, a Century of Drawings for Tattoos," an exhibition of tattoo
16 art sponsored by The Drawing Center in New York City. The collection was exhibited at The
17 Drawing Center; Williams College Museum of Art, Williamstown, Massachusetts; the Joan
18 Lehman Museum of Contemporary Art, Miami, Florida; and the Center for the Arts at Yerba
19 Buena Gardens, San Francisco, California in 1995 and 1996. The catalog for that exhibitions
20 notes that: "Tattoos generally function as psychic armor. Often the marker of a state of mind
21 or events, meaning is accrued with time, the bearer explains the mark's significance and the
22 story of how and where it was acquired. Much of the symbolism or meaning cannot be
23 articulated and is private to the wearer, as is every artwork to its creator or collector. By
24 willing it to be placed on the body, the tattoo collector literally becomes one with the art."

25 18. Tattoo artists develop and become known for their own individual styles and
26 forms. Tattoo artists are the subjects of exhibitions and magazine articles describing their
27 individual works and styles. Tattoo artist develop followings and persons seek them out.

28 19. Tattooing has been associated with religious beliefs since antiquity. Religious
expression remains a common subject of tattoo art. For example, tattooing has been

1 associated with Christianity since Biblical times. Oriental, African and European mythology
 2 also provides sources for much of the tattoo art. One currently popular form of tattoo art
 3 called "moko" is based on Maori ritual art and consists of abstract, geometric monotonic
 4 patterns. Numerous respected and legitimate art museums have held exhibitions of tattoo art.
 5 Likewise, numerous scholarly art books have been published about the art of tattooing.

6 20. Rather than reducing health risks caused by tattooing, the present CITY
 7 statutory scheme which effectively bans tattoo studios in the CITY has promoted an
 8 underground tattoo industry with no licensing, regulations or controls, thereby increasing the
 9 health and safety risks of the residents of Watsonville who wish to obtain a tattoo in the
 10 CITY.

11 **CLAIM FOR RELIEF NUMBER ONE**

12 **VIOLATION OF 42 U.S.C. SECTION 1983**

13 **(Violation of First and Fourteenth Amendments)**

14 **(All Defendants)**

15 21. Plaintiffs refer to and incorporate herein the allegations in paragraphs 1
 16 through 20 above.

17 22. The defendants have intentionally, or with reckless disregard for the truth,
 18 violated plaintiffs' right to conduct First Amendment activity of tattooing or to receive a
 19 tattoo within its boundaries. The CITY accomplished such a de facto ban on tattooing by
 20 adopting a zoning ordinance that forecloses or severely limits the location of such activity.
 21 Plaintiffs have visited every place in the CITY where it would be legal under the ordinance to
 22 conduct such a business and there are no suitable locations available. As such the ordinance
 23 has effectively denied plaintiffs a reasonable opportunity to open and operate a tattoo studio
 24 or receive a tattoo in violation of plaintiffs' First Amendment rights. Defendants passed the
 25 ordinance for the predominant purpose of suppressing plaintiffs' First Amendment rights

26 23. The CITY has no rational basis for such restrictive zoning in that there is no
 27 secondary effect of crime associated with the location of a tattoo studio and the CITY
 28 COUNCIL was so informed by the CITY Deputy Police Chief. As such, the ordinance does
 not further any substantial or rational governmental interest. Any concern for the health and

1 safety of the patrons of a tattoo studio have been foreclosed by the rigorous requirements for
 2 obtaining a use permit to open and operate such a studio - requirements to which plaintiffs
 3 made it clear to the CITY COUNCIL that they have no objection.

4 24. As a direct and proximate result of defendants' unlawful actions, plaintiffs
 5 have suffered emotional distress and WELLS has suffered monetary damages including
 6 attorney's fees and loss of business revenues entitling them to compensation under 42 U.S.C.
 7 Section 1983 according to proof, as well as reasonable attorney's fees incurred in pursuing
 8 these claims under 42 U.S.C. Section 1988.

9 25. The individual defendants' conduct was outrageous; it was intentional and
 10 malicious, or at least grossly negligent. Such conduct exhibited a reckless disregard for
 11 plaintiffs' rights, causing plaintiffs humiliation and mental anguish. Plaintiffs are therefore
 12 entitled to punitive damages against the individual defendants, according to proof.

13 **CLAIM FOR RELIEF NUMBER TWO**

14 **VIOLATION OF 42 U.S.C. SECTION 1983**

15 **(Violation of Fourteenth Amendment - Equal Protection)**

16 **(All Defendants)**

17 26. Plaintiffs refer to and incorporate herein Paragraphs 1 through 25 above.

18 27. Defendants have intentionally discriminated against plaintiffs herein by
 19 treating WELLS' business differently than other businesses of a similar nature with no
 20 rational basis for such distinction. For instance, there are no such drastic zoning restrictions
 21 for businesses such as art studios or galleries. The business of a tattoo studio is the same
 22 except that the art is performed on skin instead of a canvas and the CITY has already
 23 addressed any health and safety concerns by the strict use permit requirements to which
 24 plaintiffs have no objection. Likewise, there are no such drastic zoning restrictions for
 25 businesses such as nail salons or hair salons where permanent dyes are applied to patrons'
 hair.

26 28. As a direct and proximate result of Defendants' unlawful actions, Plaintiffs
 27 have suffered emotional distress and WELLS has suffered monetary damages including
 28 attorney's fees and loss of business. Plaintiffs are therefore entitled to compensation under 42

1 U.S.C. Section 1983 according to proof, as well as reasonable attorneys fees incurred in
2 pursuing these claims under 42 U.S.C. Section 1988.

3 29. The individual defendants' conduct was outrageous; it was intentional and
4 malicious, or at least grossly negligent. Such conduct exhibited a reckless disregard for
5 Plaintiffs' rights, causing Plaintiffs humiliation and mental anguish. Plaintiffs are therefore
6 entitled to punitive damages against Defendants, according to proof.

7 **CLAIM FOR RELIEF NUMBER THREE**

8 **(Fourteenth Amendment - Substantive Due Process)**

9 **(All defendants)**

10 30. Plaintiffs refer to and incorporate herein Paragraphs 1 through 29 above.

11 31. By taking the unlawful actions as described herein, defendants have
12 intentionally violated plaintiffs' right to substantive due process by passing the tattoo zoning
13 ordinance which, for arbitrary, capricious, discriminatory and irrational reasons, deprives
14 Plaintiffs of their First Amendment right to open a tattoo studio and to receive a tattoo in the
15 CITY. WELLS is a leaseholder of a site in the CITY that is suitable in every manner except
16 that it is not located in the one and only zone presently permitted by the ordinance to house
17 body art studios.

18 32. As a direct and proximate result of Defendants' unlawful actions, Plaintiffs have
19 suffered emotional distress and WELLS has suffered monetary damages including attorney's
20 fees and loss of business. Plaintiffs are therefore entitled to compensation under 42 U.S.C.
21 Section 1983 according to proof, as well as reasonable attorneys fees incurred in pursuing
22 these claims under 42 U.S.C. Section 1988.

23 33. The individual defendants' conduct was outrageous; it was intentional and
24 malicious, or at least grossly negligent. Such conduct exhibited a reckless disregard for
25 Plaintiffs' rights, causing Plaintiffs humiliation and mental anguish. Plaintiffs are therefore
26 entitled to punitive damages against Defendants, according to proof.

27 **FOURTH CLAIM FOR RELIEF**

28 **(Violation of Rights under the California Constitution)**

(All Defendants)

34. Plaintiffs refer to and incorporate herein Paragraphs 1 through 33 above.

35. By implementing the zoning restriction pertaining to body art establishments as described herein above, defendants have violated plaintiffs' right to freedom of expression, and their rights to be free from violations of their equal protection and due process protections under the California Constitution including Article 1, Section 1, Article 1 Section 7(a) and Article 11, Section 7.

36. As a direct and proximate result of Defendants' violations of plaintiffs' rights under the California Constitution, plaintiffs have suffered emotional distress and monetary damages including attorney's fees and loss of business.

FIFTH CLAIM FOR RELIEF

(Request for Declaratory Relief)

37. Plaintiffs refer to and incorporate herein Paragraphs 1 through 36 above.

38. An actual controversy exists between the plaintiffs and the defendants herein as to whether defendants have violated plaintiffs' constitutional rights by effectively banning tattoo art establishments in the CITY through zoning restrictions that have no rational basis.

39. Plaintiffs herein desire a judicial determination of the rights and duties of defendants, and of their compliance or non-compliance with plaintiffs' constitutional rights. Such a declaration is necessary and proper at this time in order that plaintiffs' rights under the constitution can be protected and so that plaintiffs do not suffer any more damages under the law.

FIFTH CLAIM FOR RELIEF

(Request for Injunctive Relief)

40. Plaintiffs refer to and incorporate herein Paragraphs 1 through 39 above.

41. Preliminary and permanent injunctions are appropriate remedies because Plaintiffs are suffering irreparable injury and have no plain, speedy or adequate remedy at law. Money damages will not adequately compensate Plaintiffs for the denial of their constitutional rights and civil liberties. Injunctive relief is also appropriate because it will eliminate the multiplicity of lawsuits likely to ensue from Defendants' ongoing unlawful conduct (enforcement of an unconstitutional ordinance), which affects not only the Plaintiffs

1 but others similarly situated.

2 **DEMAND FOR JURY TRIAL**

3 42. Plaintiffs demands a trial by jury on the above claims for relief.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs prays for the following relief as to these alleged violations
6 of their civil rights:

7 A. A judgment awarding Plaintiffs general and special damages plus prejudgment
8 interest in amounts according to proof;

9 B. A judgment awarding punitive damages against the individual Defendants
10 according to proof;

11 C. A judgment for injunctive relief to prevent further violation of Plaintiffs'
12 constitutional rights;

13 D. A judgment awarding Plaintiffs' reasonable attorneys fees;

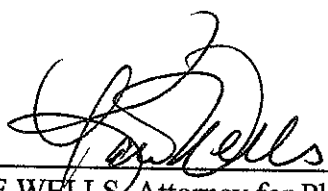
14 E. A judgment awarding Plaintiffs' costs of suit;

15 F. A judgment invalidating the applicable portions relating to body art facilities
16 of Watsonville Municipal Code Title 14, Chapter 27 and Title 14 Chapter 14-16.1203 as
17 unconstitutional; and

18 G. Such other and further relief as the Court deems proper.

19 LAW OFFICES OF KATE WELLS

20
21
22 Dated: March 10, 2008

23 By: 
24 KATE WELLS, Attorney for Plaintiffs
25 GEOFFREY WELLS and JETTZEN DICKEL
26
27
28

CIVIL COVER SHEET

The JS-44 cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, nor is it provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

GEOFFREY WELLS AND JETTZEN
DICKEL

DEFENDANTS CITY OF WATSONVILLE, CITY
COUNCIL MEMBER/MAYOR KIMBERLY PETERSEN,
CITY COUNCIL MEMBERS MANUEL BERSAMEN,
OSCAR RIOS, ANTONIO RIVAS, GREG CAPUT,
DALE SKELLY, CITY DIRECTOR JOHN
DOUGHTY AND DOES 1-15

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SANTA CRUZ
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SANTA CRUZ
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

KATE WELLS (831) 449-4475
2600 FRESNO ST.
SANTA CRUZ, CA 95062

ATTORNEYS (IF KNOWN)

C08 01382

RS

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 380 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 USC § 1983 ACTION FOR DAMAGES & INJUNCTIVE RELIEF
VIOLATION OF 1st & 14th AMENDMENTS THROUGH ZONING RESTRICTIONS OF TATPOX STUDIOS

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$ ACCORDING TO PROOF CHECK YES only if demanded in complaint: JURY DEMAND ☒ YES ☐ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AN "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND

☒ SAN JOSE

DATE

3/10/08

SIGNATURE OF ATTORNEY OF RECORD

Geoffrey Wells